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STATE FOR WHA/CEN, WHA/EPSC, EB/TPP/BTA  
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SUBJECT: FMLN CHALLENGES CAFTA IN COURT

REF: 2005 SAN SALVADOR

¶1. (U) On March 1, the FMLN made good on its rhetoric and challenged the constitutionality of the U.S.-Central America Dominican Republic Free Trade Agreement (CAFTA-DR), which entered into force for the United States and El Salvador that same day. In an event staged for political effect, FMLN deputies visited the Supreme Court with a "recurso de inconstitucionalidad" (a request for a finding of unconstitutionality), alleging that adoption of CAFTA involved 16 violations of the Constitution in process and content. FMLN Legislative Assembly delegation chief Salvador Sanchez Ceren detailed for the press particular points in which the FMLN claimed the treaty violated Salvadoran sovereignty and charged that proper legislative process had not been observed; he also alleged that approval of CAFTA by simple legislative majority was insufficient. According to the press, the left-wing NGO Citizen Action Network (Red de Accion Ciudadana) would also challenge the agreement.

¶2. (SBU) The GOES had been aware that the FMLN would file the suit, and senior officials expressed confidence on the technical issues, should the court decide to hear the case. The Supreme Court reportedly denied a similar request from the FMLN in the past. The next step is to wait for the court to admit this new request or declare it inadmissible. Post is seeking more information on the legal challenge and will share it as it becomes available.

Barclay